

Sep 27, 2019

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KURT ALLEN HASKIN,

Defendant.

No. 2:19-CR-00046-SMJ-1

ORDER GRANTING MOTION TO
EXPEDITE AND GRANTING
MOTION TO MODIFY
CONDITIONS OF RELEASE

ECF Nos. 32, 33

Before the Court are Defendant's Motion to Expedite, ECF No. 33, and Motion to Modify Conditions of Pre-trial Release, ECF No. 32. Neither the United States, nor the United States Probation/Pretrial Services Office oppose the motions.

Specifically, Defendant requests that Special Condition No. 14, requiring that he remain in the Eastern District of Washington, and Special Condition No. 28, requiring that he participate in electronic location monitoring, be suspended while he travels to and works in Karluk, Alaska for approximately one week. Defendant reports that he has worked with the Karluk IRA Tribe in the past

1 repairing large machinery and would be able to provide USPO Krous with his
2 address and dates of departure and return. ECF No. 32 at 2.

3 Defendant is charged with the receipt and possession of child pornography.
4 As such, Defendant is subject to the mandatory conditions prescribed by the Adam
5 Walsh Act, which include the special condition of electronic monitoring. *See* 18
6 U.S.C. § 3142. However, the Ninth Circuit has made clear that district courts
7 should exercise their discretion in setting and defining four of the mandatory
8 conditions: (1) defining a condition of electronic monitoring; (2) specifying
9 restrictions on personal associations, place of abode, or travel; (3) setting a
10 reporting requirement; and (4) specifying a curfew. 18 U.S.C. § 3142(c)(1)(B),
11 (iv), *708 (vi), (vii); *United States v. Kennedy*, 327 F. App'x 706, 707 (9th Cir.
12 2009); *United States v. Peebles*, 630 F.3d 1136, 1139 (9th Cir. 2010) (“The Walsh
13 Act’s mandatory release conditions require the district court to exercise its
14 discretion, to the extent practicable, in applying the mandatory release
15 conditions.”). Specifically, the Ninth Circuit requires that the district court
16 consider:

17 all relevant factors, including defendant’s job-related needs, to
18 determine the time of day or number of hours in specifying a curfew,
19 or whether the curfew must be connected to a particular address. The
20 district court shall also fashion an appropriate condition of electronic
monitoring that would enable defendant to continue his employment.
For example, the district court might find it appropriate to set a
procedure by which defendant may travel by air for work, with prior
notice and approval; and perhaps monitoring and a curfew at the

1 destination city.

2 *Kennedy*, 327 F. App'x at 707-08.

3 In considering the above factors and the safeguards in place, the Court
4 finds that temporarily modifying Defendant's conditions of release is
5 appropriate. According to USPO Krous, Defendant has been compliant with
6 all conditions of his pre-trial release, including curfew and location
7 monitoring. Defendant was previously granted a similar modification
8 allowing him to travel to the Western District of Washington by Magistrate
9 Judge Rodgers, though medical issues precluded him from making the trip.
10 *See* ECF No. 27. Apart from the current alleged offenses, Defendant has no
11 criminal history. Moreover, the instant allegations do not include hands-on
12 abuse or contact with children. The temporary modifications would allow
13 Defendant to continue substantially profitable employment with the Karluk
14 IRA Tribe.

15 In terms of the safeguards available, USPO Krous conducted a
16 background check on the individual with whom Defendant will be staying.
17 She has no criminal history, is aware of the charges against Defendant, and
18 confirmed that no children live in the residence where Defendant will stay.
19 Defendant will be staying in a village with very few people at a lodge near
20 the tribal office. USPO Krous also arranged for a probation officer for the

1 USPO for the District of Alaska, who is traveling in the Karluk area, to visit
2 him.

3 Moreover, according to the Probation Office in the District of Alaska,
4 GPS/electronic monitoring can be effectuated in the Karluk area. Defendant
5 is directed to transport his GPS device with him for use once he arrives in
6 the Karluk area.

7 On balance, the Court finds that the proposed modifications do not
8 cause an undue risk of harm to the community and are therefore in line with
9 the concerns predicated the Adam Walsh Act.

10 Accordingly; **IT IS HEREBY ORDERED:**

11 1. The Motion to Expedite (**ECF No. 32**) is **GRANTED**.

12 2. The Motion to Modify Conditions of Release (**ECF No. 33**) is
13 **GRANTED**.

14 3. **Condition No. 10**, requiring that Defendant surrender his passport to the
15 Probation Office, shall temporarily be suspended to allow Defendant to
16 travel to Alaska. Defendant's passport may be returned to him for the
17 purposes of this trip and must be returned to the Probation Office when
18 Defendant returns to the District.

19 4. **Condition No. 14**, requiring that Defendant remain in the Eastern District
20 of Washington, shall temporarily be suspended to allow Defendant to

1 travel from Tonasket, Washington to Karluk, Alaska, with the precise
2 dates to be coordinated with the U.S. Probation Office.

3 5. **Condition No. 28**, requiring that Defendant participate in electronic
4 monitoring, shall temporarily be suspended while Defendant remains in
5 Karluk, Alaska. Defendant is directed to transport his electronic
6 monitoring device with him for use when he is in Alaska.

7 6. Defendant must provide USPO Krous with the address where he will be
8 living, as well as specific dates of departure and return to USPO Krous.

9 7. To the extent possible, Defendant must remain in contact with USPO
10 Krous throughout the duration of his trip to Alaska.

11 8. All other conditions of pre-trial release shall remain in force.

12 DATED September 27, 2019.

13 s/Mary K. Dimke
14 MARY K. DIMKE
15 UNITED STATES MAGISTRATE JUDGE
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